

ORDINANCE 2003 - 018

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, PERTAINING TO LOBBYIST REGULATIONS; PROVIDING FOR TITLE AND PURPOSE; PROVIDING FOR DEFINITIONS; PROVIDING FOR REGISTRATION; PROVIDING FOR RECORD OF LOBBYING CONTACTS; PROVIDING FOR CONE OF SILENCE; PROVIDING FOR ENFORCEMENT; PROVIDING FOR PENALTIES; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Palm Beach County, Florida, hereby determines that its citizens must be accorded access to County Officials at all levels of government; and

WHEREAS, the Board further determines that in order to preserve and maintain the integrity of the governmental process, it is necessary that the identity and activities of those who regularly engage in efforts to persuade public officials be regularly disclosed to the public; and

WHEREAS, the Board further determines that limiting communication among potential vendors, their representatives, and government officials during the County's procurement process will provide for the continued integrity of such process; and

WHEREAS, the County is authorized pursuant to the Florida Constitution, the Laws of Florida, and the Palm Beach County Home Rule Charter to impose such laws as are needed to carry on county government; and

WHEREAS, the Board of County Commissioners of Palm Beach County hereby determines that the Palm Beach County Lobbyist Registration Ordinance will serve the interests of its citizens by preserving and maintaining its policy of open government.

NOW, THEREFORE, be it ordained by the Board of County Commissioners of Palm Beach County, Florida, that:

**Section 1. Title and Purpose.**

- A. This Ordinance may be cited as the "Palm Beach County Lobbyist Registration Ordinance."
- B. The Board of County Commissioners of Palm Beach County hereby determines that the operation of responsible government requires that the fullest opportunity be afforded to the people to petition their County government for the redress of grievances and to express freely to the elected officials their opinions on legislation and other actions and issues; that to preserve and maintain the integrity of the governmental decision-making process, it is necessary that the identity and activities

1 of certain Persons who engage in efforts to influence County Commissioners, Advisory Board  
2 members, and Employees on matters within their official duties, be publicly and regularly disclosed.

3 **Section 2. Definitions.**

4 A. Unless expressly provided herein to the contrary, for purposes of this Ordinance, the  
5 following definitions will apply:

6 1. **"Advisory Board"** will mean any advisory or quasi-judicial board created by the  
7 Board of County Commissioners.

8 2. **"Board"** will mean the Board of County Commissioners of Palm Beach County,  
9 Florida.

10 3. **"County Commissioner"** will mean any member of the Board of County  
11 Commissioners of Palm Beach County, Florida.

12 4. **"Employee"** will mean all personnel employed by the Board of County  
13 Commissioners.

14 5. **"Lobbying"** shall mean seeking to influence the decision of any County  
15 Commissioner, any Advisory Board member, or any Employee with respect to the passage, defeat  
16 or modification of any item which may foreseeably be presented for consideration to the Advisory  
17 Board or Board of County Commissioners as applicable.

18 6. **"Lobbyist"** shall mean any Person who is employed and receives payment, or who  
19 contracts for economic consideration, for the purpose of Lobbying on behalf of a Principal.  
20 **"Lobbyist"** shall not include any Employee when acting in the course of his or her employment, any  
21 elected local official when the official is Lobbying on behalf of the governmental agency which the  
22 official serves, or any member of the official's staff when such staff member is Lobbying on an  
23 occasional basis on behalf of the governmental agency by which the staff member is employed.

24 7. **"Person"** shall mean individuals, firms, associations, joint ventures, partnerships,  
25 estates, trusts, business trusts, syndicates, fiduciaries, corporations (profit or not-for-profit),  
26 professional corporations, or associations, and all other groups or combinations however constituted.

27 8. **"Principal"** shall mean the Person or entity a Lobbyist represents for the purpose of  
28 Lobbying.

29 **Section 3. Registration.**



1       **A. Registration Required.** All Lobbyists shall register with County Administration before  
2 engaging in Lobbying. Every Lobbyist shall submit a form prepared by County Administration and  
3 shall state his or her name, address, the name and address of each Principal represented, the general  
4 and specific areas of legislative interest, and the nature and extent of any direct business association  
5 or partnership with any current County Commissioner, Advisory Board member, or Employee. A  
6 Lobbyist's registration shall automatically expire on December 31st of the year of registration. If at  
7 any time during the year, a Lobbyist commences representing a Principal for which the Lobbyist has  
8 not registered pursuant to this Ordinance, such Lobbyist shall register with respect to that Principal  
9 prior to Lobbying. Lobbying prior to registration is prohibited.

10       **B. Registration Exceptions.** Registration shall not be required for the following:

- 11           1. County Commissioners, Advisory Board members or Employees discussing matters  
12 relevant to their official duties;
- 13           2. Consultants under contract with the County who communicate with County  
14 Commissioners, Advisory Board members or Employees regarding issues related only to the  
15 performance of their services under their contract;
- 16           3. Any Person who lobbies only in his or her individual capacity for the purpose of self-  
17 representation;
- 18           4. Any Person who appears before the Board or Advisory Board in a quasi-judicial  
19 proceeding.

20       **C. False Statements.** A Lobbyist shall not knowingly make, or cause to be made, a false  
21 statement or misrepresentation in maintaining registration or when Lobbying County Commissioners,  
22 Advisory Board Members, or Employees.

23       **Section 4. Record of Lobbying Contacts.**

24       **A. Contact Log.** Except when appearing before the Board or any Advisory Board, all Persons  
25 shall sign, for each instance of Lobbying, contact logs maintained and available in the office of  
26 reception of each department of County government. The Person shall provide his or her name,  
27 whether or not the Person is a Lobbyist as defined in this Ordinance, the name of each Principal, if  
28 any, represented in the course of the particular contact, and the subject matter of the Lobbying  
29 contact. All contact logs shall be transmitted to the County Administrator at the end of each calendar  
30 quarter.

1       **B. Lobbying Outside of County Offices.** In the event that a Lobbyist engages in Lobbying  
2       which is outside of County offices, and which is a scheduled appointment initiated by any Person for  
3       the purpose of Lobbying, the Lobbyist shall advise the Commissioner's office or Employee's  
4       department office as appropriate of the calendar scheduling of an appointment and the subject matter  
5       of the Lobbying contact.

6       **Section 5. Cone of Silence.**

7       **A.** "Cone of Silence" means a prohibition on any communication, except for written  
8       correspondence, regarding a particular Request for Proposal, Request for Qualification, bid, or any  
9       other competitive solicitation between:

10       1. Any Person or Person's representative seeking an award from such competitive  
11       solicitation, and

12       2. Any County Commissioner or Commissioner's staff, the Employee, or any Person  
13       appointed to evaluate or recommend selection in such competitive solicitation.

14       **B.** For the purposes of this Section, a Person's representative shall include but not be limited  
15       to the Person's employee, partner, officer, director, consultant, Lobbyist, or any actual or potential  
16       subcontractor or consultant of the Person.

17       **C.** The Cone of Silence shall be in effect as of the deadline to submit the proposal, bid, or other  
18       response to a competitive solicitation. Each Request for Proposal, Request for Qualification, bid,  
19       or any other competitive solicitation shall provide notice of Cone of Silence requirements and refer  
20       to this Ordinance.

21       **D.** The provisions of this Ordinance shall not apply to oral communications at pre-bid  
22       conferences, oral presentations before selection committees, contract negotiations during any public  
23       meeting, contract negotiations between any Employee and the intended awardee, public presentations  
24       made to the Board, or any written correspondence at any time with any Employee, County  
25       Commissioner, or Advisory Board Member or selection committee member, unless specifically  
26       prohibited by the applicable competitive solicitation process.

27       **E.** The Cone of Silence shall terminate at the time the Board, or a County Department authorized  
28       to act on behalf of the Board, awards or approves a contract, rejects all bids or responses, or  
29       otherwise takes action which ends the solicitation process.

30       **Section 6. Enforcement.**



1       **A.**     If the County Administrator is informed of any Person engaged in Lobbying activities who  
2       has failed to comply with the requirements of this Ordinance, he or she shall conduct an investigation  
3       as deemed necessary under the circumstances. In the event the County Administrator determines  
4       that a violation has occurred based on the results of the investigation, the following enforcement  
5       procedures shall apply.

6       **B.**     A notice of violation shall be transmitted to the Person indicating the nature of the violation  
7       and the penalty imposed. The Lobbyist shall have up to thirty days after the date of the notice to seek  
8       appeal of the penalty. In the event the Lobbyist fails to submit an appeal in writing to the County  
9       Administrator within thirty days of the date of such notice, the violation shall be deemed final, and  
10      the penalty imposed shall be effective immediately.

11      **C.**     Appeals of any decisions of the County Administrator shall be referred to a special master  
12      for hearing.

13           1.     Creation and Appointment. Appeal hearings pursuant to this Ordinance shall be  
14      conducted by designated special masters. Applications for special master positions shall be directed  
15      to the County Administrator pursuant to a notice published in a newspaper of general circulation.  
16      The County Administrator shall select a pool of candidates from applications filed on the basis of  
17      experience and qualifications. The County Administrator shall appoint each special master to  
18      conduct each hearing from the pool of candidates selected, as necessary. A special master shall be  
19      a graduate of a law school accredited by the American Bar Association, and a current member in  
20      good standing of The Florida Bar. The County Administrator shall give preference to those attorneys  
21      who have prior experience in a judiciary capacity, or as a hearing officer, mediator, or special master.  
22      Special masters shall serve without compensation for their services, and shall not be considered  
23      Employees. Travel reimbursement is limited to expenses incurred only for travel outside Palm Beach  
24      County necessary to fulfill their responsibilities as a special master.

25           2.     Conduct of Hearing. Hearings before the special master shall be conducted as  
26      follows:

27           a.     Persons seeking appeal will receive written notice by certified mail of the  
28                  hearing no less than fifteen working days in advance of the hearing. The special master shall  
29                  render a decision on the appeal within fifteen working days after the case was heard.

1           b.       The special master shall provide Persons seeking appeal and any County  
2 representatives an opportunity to present testimony and evidence. All testimony shall be  
3 under oath and shall be recorded. Formal rules of evidence shall not apply, but fundamental  
4 due process shall be observed and shall govern the proceedings. The special master, in his  
5 or her discretion, may exclude irrelevant, immaterial, or unduly repetitious evidence, but all  
6 other evidence of a type commonly relied upon by reasonably prudent Persons in the conduct  
7 of their affairs shall be admissible, whether or not such evidence would be admissible in a  
8 trial in the courts of Florida. Any part of the evidence may be received in written form.

9           c.       The decision of the special master is final and appealable by writ of certiorari  
10 pursuant to the Florida Rules of Appellate Procedure.

11       **D.**       The validity of any action taken by the Board, the Advisory Boards, or any Employees, shall  
12 not be affected by the failure of any Person to comply with the provisions of this Ordinance.

13       **Section 7. Penalties.**

14       **A.**       Violations of the Palm Beach County Lobbyist Registration Ordinance shall be punishable  
15 as follows.

16           1.       Failure to properly register as required by Section 3 of this Ordinance shall be deemed  
17 a single violation, punishable by a fine of two hundred fifty dollars (\$250.00) per day for each day  
18 an unregistered Lobbyist engages in Lobbying activity, in an amount not to exceed a total of two  
19 thousand five hundred dollars (\$2,500.00).

20           2.       Failure to properly provide Lobbying contact information as required by Section 4  
21 of this Ordinance shall be punishable by a fine of two hundred fifty dollars (\$250.00) for each  
22 violation.

23           3.       Violations of the Cone of Silence set forth in Section 5 of this Ordinance shall be  
24 punishable by a fine of two hundred fifty dollars (\$250.00) for each violation.

25           4.       Any Person who knowingly makes or causes to be made a false statement or  
26 misrepresentation in maintaining a Lobbyist registration shall be subject to a fine of two hundred fifty  
27 dollars (\$250.00) for each violation.

28           5.       Any Person who violates the provisions of this Ordinance more than once during a  
29 twelve-month period shall be prohibited from Lobbying as follows: A second violation shall result  
30 in a prohibition of one year; a third violation shall result in a prohibition of two years.



6. The penalties provided in this section shall be exclusive penalties imposed for any violation of the registration, contact log, and Cone of Silence requirements of this Ordinance. Failure or refusal of any Lobbyist to comply with any order of the County or special master shall be punishable as provided by law, and shall otherwise be subject to such civil remedies as the County may pursue, including injunctive relief.

**Section 8. Repeal of Laws in Conflict.**

All local laws and ordinances in conflict with any provisions of this Ordinance are hereby repealed to the extent of such conflict.

**Section 9. Severability.**

If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason held by the Court to be unconstitutional, inoperative, or void, such holding shall not affect the remainder of this Ordinance.

**Section 10. Inclusion in the Code of Laws and Ordinances.**

The provisions of this Ordinance shall become and be made a part of the Code of Laws and Ordinances of Palm Beach County, Florida. The sections of this Ordinance may be renumbered or re-lettered to accomplish such, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

**Section 11. Effective Date.**

The provisions of this Ordinance shall become effective July 1, 2003.

APPROVED and ADOPTED by the Board of County Commissioners of Palm Beach County, Florida, on this the 20 day of May, 2003.

DOROTHY H. WILKEN, CLERK

PALM BEACH COUNTY, FLORIDA, BY ITS  
BOARD OF COUNTY COMMISSIONERS

By: Sinde C. Hickman  
Deputy Clerk

By: Karen T. Marcus  
Chair

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

By: Dorothy H. Wilken  
County Attorney

Filed with the Department of State on the 29 day of May, 2003.

STATE OF FLORIDA, COUNTY OF PALM BEACH  
I, DOROTHY H. WILKEN, ex-officio Clerk of the  
Board of County Commissioners certify this to be a  
true and correct copy of the original filed in my office  
on May 20th, 2003  
DATED at West Palm Beach, FL on 6/17/03  
DOROTHY H. WILKEN, Clerk  
By: Diane Brown D.C.